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File No. O.C.S.C. & R. 43

Legal Department

A **BRANCH**

Subject:—

Appointments under the Bombay Civil Services classifications and Recruitment Rules, 1939

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Gen. 194 e.

231-A

C O N T E N T S.

Legal Department File No. O.C.S.C. & R/~~xxxxxx~~ 1943

Sr. No.	R.E. / O. No.	Subject	Pages.
		Opinions under the Bombay Civil Services Classifications and Recruitment Rules, ~~1943~~ 1939.	
	O.N. 2035 18-3-1943.	The question whther ~~xxx~~ Mr. N.D. DAROGA born and domiciled in Karachi can be said to have a domicile in the Pr ovince of Bombay within the meaning of rule 3(d) of the B.C.S.C & R. Rules, 1939 by reason of his having a domicile of origina in the Presideney of Bombay when ~~xxxxxxxx~~ Sind was a part of the Predideney.	1-2.
2.	R.E No 168-Confl. 31-3-43	O.N. 3009 24-4-43. Question whether proposal draft rule 3(b) of the Bombay Medical and Public Health Services (War Services Personnel) Recruitment Rules 1942, can override the provisions of rule 45 in Appendix C to the Rules so as to empower Government persons as Asstt. Directors of Public Health, although they do not posses qualificationsprescribed under rule 45.	~~(No Copy).~~ (No. copy) 3-4.

NLG 10/8

The question for the consideration of the R.L.A. is whether Mr. N.D. Daroga born and domiciled in Karachi can be said to have a domicile in the Province of Bombay within the meaning of rule 3(d) of the Bombay Civil Services Classification and Recruitment Rules. 1939, by reason of his having a domicile of origin in the Presidency of Bombay when Sind was a part of the Presidency?

2. The Bombay Civil Services Classification and Recruitment Rules, 1939, came into operation after Sind was separated from Bombay and consequently any reference to the Province of Bombay in these rules will have no application to the Province of Sind. Under rule 3(d) of these rules "Native of Province of Bombay" means a person who at the date of his appointment has a domicile in the Province of Bombay. Note to rule 3(d) states that for the purpose of these rules the domicile of a person shall be determined in accordance with the procedure prescribed in Appendix 1. Rule I of the Rules contained in Appendix I provides that the domicile of a person may be defined as the place which is his permanent home and domicile is of two kinds namely domicile of origin and domicile of choice. Under rule 2 a person can have only one domicil at the same time. The domicile of origin of every person of legitimate birth is in the country in which at the time of his birth his father was domiciled. The domicile of origin prevails until a new domicile has been acquired and a new domicile continues until the former domicile has been resumed or another has been acquired. A person acquires a new domicile by taking up his fixed habitation in a country which is not that of his domicile of origin (see rules 3 to 6). Mr. Daroga has his domicile of origin in Karachi i.e. in the Province of Sind and does not claim to have acquired a new domicile in the Province of Bombay. Consequently he cannot be considered to have a domicile in the Province of Bombay within the meaning of rule 3(d). The fact that Mr. Daroga had a domicile of origin in the Presidency of Bombay before Sind

was separated has no relevant to the question determinging his domicile under the Bombay Civil Services Classification and Recruitment Rules, 1939. The view taken in the P. & S.D. office note is correct.

Id/- P.N.M
18/3.

Remembraneer of Legal Affairs.

U.R. to P. & S.D. No. 2035, dated the 18th March 1943.

EVY. 7/7.